

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GREGORY GIBBS, TATONYA
HUGGINS, LINDA BURNS and ANDREA
HELM, on behalf of himself and those
similarly situated,

Plaintiffs,

v.

Case No.: 2:18-cv-434-FtM-38MRM

MLK EXPRESS SERVICES, LLC,
AMAZON LOGISTICS, INC.,
AMAZON.COM SERVICES, INC.,
MANIHONG M. PHANOUVONG, LILA
V. PHANOUVONG, AMAZON.COM,
INC. and AG PLUS EXPRESS, LLC,

Defendants.

REPORT AND RECOMMENDATION

Before the Court is the Agreed Motion to Approve the Parties' Proposed Notice to Potential Claimants of Collective Action Pursuant to Court Order [D.E. 185]. (Doc. 188). The parties in this Fair Labor Standards Act ("FLSA") matter seek Court approval of their proposed notice. (See Doc. 188-1). Upon careful review of the filing, the Undersigned recommends that the Agreed Motion (Doc. 188) be **GRANTED** and the Court approve the proposed notice (Doc. 188-1).

On July 25, 2019, the parties sought Court approval of their initial proposed notice. (Doc. 175). The Undersigned issued a Report and Recommendation noting several deficiencies with the language of that proposed notice and recommended the Court deny the parties' request without prejudice. (Doc. 177). The presiding United States District Judge approved the Report and Recommendation in full. (Doc. 179).

Relevantly, the Undersigned noted that the prior proposed notice contained inaccurate and misleading language concerning a related FLSA matter styled *Burns v. MLK Express Serv., LLC et al.*, No. 2:18-cv-00625-TJC-MRM (Corrigan, J.). (Doc. 177 at 2).¹² The parties prior proposed notice also failed to include certain language warning opt-in plaintiffs of their potential liabilities. (*Id.* at 4).

Upon careful review of the proposed notice before the Court now, the Undersigned finds that the parties have adequately addressed the Court's concerns and have corrected the previously noted deficiencies. There is no language concerning the *Burns* matter and appropriate language cautioning opt-in plaintiffs of their liability in a section titled "Effect of Joining Suit." (Doc. 188-1 at 2). Thus, for these reasons, the Undersigned recommends the Court approve the parties' proposed notice. The Undersigned finds the proposed notice to be otherwise adequate and reasonable under the circumstances of this litigation.

CONCLUSION

Based upon the foregoing, the Undersigned **RESPECTFULLY RECOMMENDS** that the Agreed Motion to Approve the Parties' Proposed Notice to Potential Claimants of Collective Action Pursuant to Court Order [D.E. 185] (Doc. 188) be **GRANTED** and the Court **APPROVE** the proposed notice at Doc. 188-1.

¹ The Court has now dismissed without prejudice the *Burns* matter under the first-filed rule and the named plaintiffs in that matter have consented to join the action *sub judice*. (See Docs. 183, 186).

² The parties also filed individual proposed notices (Docs. 180, 181, 182), but the Court also denied those without prejudice for containing inaccurate language concerning the *Burns* matter (See Doc. 184).

RESPECTFULLY RECOMMENDED in Chambers in Ft. Myers, Florida on June 23,
2020.



MAC R. MCCOY
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

Copies furnished to:

Counsel of Record
Unrepresented Parties